IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

WP(C).No. 34172 of 2006(R)

OA.209/2004 of DEBT RECOVERY TRIBUNAL, ERNAKULAM

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PETITIONERS:

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1. A.C.JOSEPH, S/O. CHACKO,
   AMAKKATTU HOUSE, PULPALLY,
   WAYANAD DISTRICT.

2. MARY JOSEPH, W/O. A.C.JOSEPH,
   AMAKKATTU HOUSE, PULPALLY, WAYANAD DISTRICT.

3. JOJO JOSEPH, S/O. A.C.JOSEPH,
   AMAKKATTU HOUSE, PULPALLY, WAYANAD DISTRICT.

BY ADV. SRI.M.P.ASHOK KUMAR

RESPONDENTS:

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1. THE FEDERAL BANK LIMITED,
   NADAKKAVU WEST BRANCH, CALICUT DISTRICT.

2. THE RECOVERY OFFICER,
   DEBTS RECOVERY TRIBUNAL, 8TH FLOOR,
   K.S.H.B. BUILDING, PANAMBILLY NAGAR, COCHIN-36.

BY ADV. SRI.MOHAN JACOB GEORGE (FOR R1)
SMT.P.V.PARVATHI
SMT.REENA THOMAS
SRI.L.RAM MOHAN
SRI.TITUS THOMAS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF THE ORDER IN O.A. 209/04 DATED 24.05.2006.

EXT. P2: COPY OF THE APPLICATION DATED 13.07.06 FILED BY THE PETITIONER.

EXT. P3: COPY OF THE DEMAND NOTICE ISSUED BY THE 2ND RESPONDENT.

/TRUE COPY/

P.A. TO JUDGE

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THOTTATHIL B.RADHAKRISHNAN, J.

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W.P.(C) No. 34172 of 2006

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Dated this the 16th day of October, 2007

JUDGMENT

Heard learned counsel for the petitioners and the learned counsel for the 1st respondent.

2. The petitioner availed three different loans from the 1st respondent. He challenges Ext.P3 notification issued by the recovery officer of the Debt Recovery Tribunal on the basis of the recovery certificate issued by the Tribunal. According to the petitioner, he was willing for a One Time Settlement and that the recovery certificate issued is a bottleneck to settle the matter amicably.

3. Taking notice that Ext.P2 representation was made by him on 13.07.06 and because the amounts outstanding would have grown by this time to Rs.25 Lakhs, the petitioner has to make payments to wipe off the outstanding also because there is no legal infirmity or jurisdictional error in the issuance of Ext.P3.

4. Barring the remittances of Rs.2 Lakhs as per order dated

4.1.07, no amount is shown to have been paid after the interim order dated 5.3.07 though the petitioner was to pay at the rate of 2 Lakhs per month to avoid distress proceeding.

5. Having heard the learned counsel for the petitioner and learned counsel for the Bank, I am satisfied that the demand notice has been issued on the basis of recovery certificate issued by the Tribunal which has been issued under lawful authority. The impugned proceeding do not warrant interference in exercise of the authority under Article 226 of the Constitution. I also do not find any ground to issue any further direction to act on with Ext.P2 representation dated 13.2.06, though such a relief is also sought for at hearing.

In the result, this writ petition fails. The same is accordingly dismissed. No costs.

Sd/-
THOTTATHIL B.RADHAKRISHNAN,
JUDGE

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